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8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. ID 2005 64334

12 ANDREW GALYUK
13 493 Pebble Drive
El Sobrante, CA 94803

A C C U S A T I O N

14 Physical Therapy Assistant No. AT-6612

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his
20 official capacity as the Executive Officer of the Physical Therapy Board of California,
21 Department of Consumer Affairs.

22 2. On or about December 11, 2003, the Physical Therapy Board of California
23 issued Physical Therapy Assistant License Number AT-6612 to Andrew Galyuk (Respondent).
24 The Physical Therapy Assistant License was in full force and effect at all times relevant to the
25 charges brought herein and will expire on October 31, 2007, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Physical Therapy Board of
3 California (Board), Department of Consumer Affairs, under the authority of the following laws.
4 All section references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2609 of the Code states:
6 The board shall issue, suspend, and revoke licenses and approvals to practice
7 physical therapy as provided in this chapter.

8 5. Section 2630 of the Code states:
9 It is unlawful for any person or persons to practice, or offer to practice, physical
10 therapy in this state for compensation received or expected, or to hold himself or herself out as a
11 physical therapist, unless at the time of so doing the person holds a valid, unexpired, and
12 unrevoked license issued under this chapter.

13 A physical therapist licensed pursuant to this chapter may utilize the services of
14 one aide engaged in patient-related tasks to assist the physical therapist in his or her practice of
15 physical therapy. "Patient-related task" means a physical therapy service rendered directly to the
16 patient by an aide, excluding non-patient-related tasks. "Non-patient-related task" means a task
17 related to observation of the patient, transport of the patient, physical support only during gait or
18 transfer training, housekeeping duties, clerical duties, and similar functions. The aide shall at all
19 times be under the orders, direction, and immediate supervision of the physical therapist.
20 Nothing in this section shall authorize an aide to independently perform physical therapy or any
21 physical therapy procedure. The board shall adopt regulations that set forth the standards and
22 requirements for the orders, direction, and immediate supervision of an aide by a physical
23 therapist. The physical therapist shall provide continuous and immediate supervision of the aide.
24 The physical therapist shall be in the same facility as, and in proximity to, the location where the
25 aide is performing patient-related tasks, and shall be readily available at all times to provide
26 advice or instruction to the aide. When patient-related tasks are provided to a patient by an aide,
27 the supervising physical therapist shall, at some point during the treatment day, provide direct
28 service to the patient as treatment for the patient's condition, or to further evaluate and monitor

1 the patient's progress, and shall correspondingly document the patient's record.

2 6. Section 2655 of the Code states:

3 As used in this article:

4 (a) "Physical therapist" means a physical therapist licensed by the board.

5 (b) "Physical therapist assistant" means a person who meets the
6 qualifications stated in Section 2655.3 and who is approved by the board to assist
7 in the provision of physical therapy under the supervision of a physical therapist
8 who shall be responsible for the extent, kind, and quality of the services provided
9 by the physical therapist assistant.

10 (c) "Physical therapist assistant" and "physical therapy assistant" shall be
11 deemed identical and interchangeable.

12 7. Section 2660 of the Code states:

13 The board may, after the conduct of appropriate proceedings under the
14 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose
15 probationary conditions upon any license, certificate, or approval issued under this chapter for
16 unprofessional conduct that includes, but is not limited to, one or any combination of the
17 following causes:

18 (i) ... violating, or attempting to violate, directly or indirectly, or assisting
19 in or abetting the violating of, or conspiring to violate any provision or term of
20 this chapter or of the State Medical Practice Act.

21 (l) The commission of any fraudulent, dishonest, or corrupt act which is
22 substantially related to the qualifications, functions, or duties of a physical
23 therapist or physical therapy assistant.

24 8. Section 2655.7 of the Code states:

25 Notwithstanding Section 2630, a physical therapist assistant may assist in the
26 provision of physical therapy service provided the assistance is rendered under the supervision of
27 a physical therapist licensed by the board.

28 9. California Code of Regulations, title 16, section 1398.44, states:

1 “1398.44. Adequate Supervision Defined.

2 “A licensed physical therapist shall at all times be responsible for all physical
3 therapy services provided by the physical therapist assistant. The supervising physical
4 therapist has continuing responsibility to follow the progress of each patient, provide
5 direct care to the patient and to assure that the physical therapist assistant does not
6 function autonomously. Adequate supervision shall include all of the following:

7 “(a) The supervising physical therapist shall be readily available in person or by
8 telecommunication to the physical therapist assistant at all times while the physical
9 therapist assistant is treating patients. The supervising physical therapist shall provide
10 periodic on site supervision and observation of the assigned patient care rendered by the
11 physical therapist assistant.

12 “(b) The supervising physical therapist shall initially evaluate each patient and
13 document in the patient record, along with his or her signature, the evaluation and when
14 the patient is to be reevaluated.

15 “(c) The supervising physical therapist shall formulate and document in each
16 patient's record, along with his or her signature, the treatment program goals and plan
17 based upon the evaluation and any other information available to the supervising physical
18 therapist. This information shall be communicated verbally, or in writing by the
19 supervising physical therapist to the physical therapist assistant prior to initiation of
20 treatment by the physical therapist assistant. The supervising physical therapist shall
21 determine which elements of the treatment plan may be assigned to the physical therapist
22 assistant. Assignment of these responsibilities must be commensurate with the
23 qualifications, including experience, education and training, of the physical therapist
24 assistant.

25 “(d) The supervising physical therapist shall reevaluate the patient as previously
26 determined, or more often if necessary, and modify the treatment, goals and plan as
27 needed. The reevaluation shall include treatment to the patient by the supervising physical
28 therapist. The reevaluation shall be documented and signed by the supervising physical

1 therapist in the patient's record and shall reflect the patient's progress toward the
2 treatment goals and when the next reevaluation shall be performed.

3 “(e) The physical therapist assistant shall document each treatment in the patient
4 record, along with his or her signature. The physical therapist assistant shall document in
5 the patient record and notify the supervising physical therapist of any change in the
6 patient's condition not consistent with planned progress or treatment goals. The change in
7 condition necessitates a reevaluation by a supervising physical therapist before further
8 treatment by the physical therapist assistant.

9 “(f) Within seven (7) days of the care being provided by the physical therapist
10 assistant, the supervising physical therapist shall review, cosign and date all
11 documentation by the physical therapist assistant or conduct a weekly case conference
12 and document it in the patient record. Cosigning by the supervising physical therapist
13 indicates that the supervising physical therapist has read the documentation, and unless
14 the supervising physical therapist indicates otherwise, he or she is in agreement with the
15 contents of the documentation.

16 “(g) There shall be a regularly scheduled and documented case conference
17 between the supervising physical therapist and physical therapist assistant regarding the
18 patient. The frequency of the conferences is to be determined by the supervising physical
19 therapist based on the needs of the patient, the supervisory needs of the physical therapist
20 assistant and shall be at least every thirty calendar days.

21 COST RECOVERY

22 10. Section 2661.5 of the Code states:

23 (a) In any order issued in resolution of a disciplinary proceeding before
24 the board, the board may request the administrative law judge to direct any
25 licensee found guilty of unprofessional conduct to pay to the board a sum not to
26 exceed the actual and reasonable costs of the investigation and prosecution of the
27 case.

1 FIRST CAUSE FOR DISCIPLINE

2 (Unlicensed Practice)

3 11. On or about July 18, 2005, N. G., Rehabilitation Manager at the Tunnel
4 Center for Rehabilitation and Health Care (“Center”), filed a Consumer Complaint with the
5 Physical Therapy Board regarding respondent who was employed as a physical therapist
6 assistant at the Center. The complaint alleged that respondent initiated unauthorized physical
7 therapy treatments on two patients without direction from a physical therapist. The Division of
8 Investigation (“DOI”) thereafter conducted an investigation on behalf of the Board.

9 12. On May 19, 2005, Patient L.H., an 86 year old female, was admitted to
10 the Center. The admitting notes stated that she had suffered a stroke in April 2005, and was
11 experiencing right sided weakness. On May 10, 2005, Physical Therapist A.O. completed an
12 initial evaluation of L.H., and documented the following therapeutic procedures in the Plan of
13 Care for L.H.: therapeutic exercise, gait training, therapeutic activities and modalities including
14 electrical stimulation. However, A.O. decided not to delegate to respondent performance of
15 electrical stimulation on L.H.

16 A. On June 13, 2005, respondent provided electrical stimulation to L.H. but
17 did not discuss this with A.O. prior to initiating treatment. He did not document this treatment in
18 the Daily Notes section of the patient’s record, nor did he charge the appropriate CPT code on his
19 activity record. Respondent completed a Patient Modality Protocol and indicated the parameters
20 used, then signed it.

21 B. On June 15, 2005, respondent and A.O. met to discuss L.H.’s progress, but
22 respondent did not inform A.O. that he had initiated electrical stimulation treatment. A.O. was
23 not aware that respondent provided electrical stimulation to L.H. until June 20, 2005, when she
24 reviewed the Patient Modality Protocol form. A.O. informed the facility supervisor, N.G., of
25 respondent’s action.

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Patient C.V.

13. Patient C.V., an 83-year old female, was admitted to the Center on June 16, 2005. She was diagnosed with diabetes mellitus and hypertension, and had a history of falling. The physical therapist assigned to C.V.'s care, A.O., did not include electrical stimulation as part of the initial or any revised plan of care for this patient.

A. On June 29, 2005 and June 30, 2005, respondent provided electrical stimulation therapy to C.V. He then completed a physical therapy billing document and billed "CPT code G0283 (electrical stimulation, other.)" In the Physical Therapy records, two pages document the use of electrical stimulation: a page titled "Patient Modality Protocol" dated June 29, 2005 lists respondent as the therapist. A body diagram is marked indicating electrode placement and a treatment note documented the use of the stimulation with a lower extremity restorator; and a page titled "Functional Re-ed Cycle" provides the protocol use of the Omni-stim modality with the cycle and appropriate billing codes to use with its application. Respondent did not specifically document the use of the electrical stimulator on June 29, 2005 in the "Physical Therapy Addendum" form. On June 30, 2005, respondent did not specifically document usage of electrical stimulation, but instead wrote "neuro re-ed with BLE restorator to increase patient's ability to complete full cycle during cycling."

B. The physical therapist, A.O., did not authorize respondent's use of electrical stimulation. She did not co-sign respondent's notes for June 29, 2005 or June 30, 2005.

14. Respondent is subject to disciplinary action based upon the events and acts alleged above, pursuant to Business and Professions Code sections 2660(i) [violating any provision] and/or 2660(l) [dishonest act], and/or section 1398.44 of Title 16 of the California Code of Regulations in that respondent, as a physical therapist assistant, performed electrical stimulation without delegation by a physical therapist, in violation of code section 2630 and CCR 1398.44(c).

Respondent, as a physical therapist assistant, failed to document each treatment he performed in the patient record, along with his signature, in violation of CCR 1398.44(e).

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapy Assistant Number AT-6612, issued to Andrew Galyuk.
2. Ordering Andrew Galyuk to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: October 23, 2006

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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Galyuk Accusation.wpd